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23 UNITED STATES DISTRICT COURT
24 FOR THE NORTHERN DISTRICT OF CALIFORNIA
25 SAN FRANCISCO DIVISION

26 AMERICAN FEDERATION OF
27 GOVERNMENT EMPLOYEES, AFL-CIO;
28 et al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 3:25-cv-03698-SI

**DECLARATION OF BARBARA J.
CHISHOLM IN SUPPORT OF
PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER
AND MOTION FOR ADMINISTRATIVE
RELIEF TO EXCEED PAGE
LIMITATION**

DECLARATION OF BARBARA J. CHISHOLM

I, Barbara J. Chisholm, declare as follows:

1. I am a member in good standing of the State Bar of California and the bar of this Court. I represent all Union and Non-Profit Organization Plaintiffs in this action. This declaration is based on my personal knowledge, information, and belief. I also make this declaration pursuant to Local Rule 65-1(a)(5) regarding notice of the accompanying Motion For Temporary Restraining Order And Order To Show Cause (“TRO Motion”).

2. A true and correct copy of the February 11, 2025 Executive Order 14210 titled “Implementing the President’s ‘Department of Government Efficiency’ Workforce Optimization Initiative” which is available at and has been downloaded from the official U.S. government website for the Federal Register at the following link, <https://www.govinfo.gov/content/pkg/FR-2025-02-14/pdf/2025-02762.pdf>, is attached to Plaintiffs’ Memorandum In Support Of Motion For Temporary Restraining Order as **Appendix A**.

3. A true and correct copy of the February 26, 2025 Memorandum from Russell T. Vought, Director, Office of Management and Budget (“OMB”), and Charles Ezell, Acting Director, Office of Personnel Management (“OPM”), to all Heads of Executive Departments and Agencies, titled “Guidance on Agency RIF and Reorganization Plans Requested by Implementing The President’s ‘Department of Government Efficiency’ Workforce Optimization Initiative,” which is available at and has been downloaded from the official U.S. government website for the Office of Personnel Management at the following link, <https://www.opm.gov/policy-data-oversight/latest-and-other-highlighted-memos/guidance-on-agency-rif-and-reorganization-plans-requested-by-implementing-the-president-s-department-of-government-efficiency-workforce-optimization-initiative.pdf>, is attached to Plaintiffs’ Memorandum In Support Of Motion For Temporary Restraining Order as **Appendix B**.

4. A true and correct copy of the April 29, 2025 article titled “White House Pushed Job Cuts at Agency That’s Clashed With Musk (2),” published by Bloomberg Law, Daily Labor Report, which is available at and has been downloaded from the Bloomberglaw.com website at the link, <https://news.bloomberglaw.com/product/blaw/bloomberglawnews/exp/eyJpZCI6IjAwMDAwMTk2L>

1 [TgyOTAtZDg3Yi1hM2Y2LWRIYjQ1NTZhMDAwNCIsImN0eHQiOiJETE5XIiwidXVpZCI6IjRtV](https://www.dhs.gov/immigration-travel/entry/entry-process)
 2 [HNJOURUOUUpCSDN3U0o2dzZtS1E9PURoNGFpbGdwTjNMZjh0WUNRRXZBU1E9PSIsInRpb](https://www.dhs.gov/immigration-travel/entry/entry-process)
 3 [WUiOiIxNzQ1OTQ3NTQ3NzIwIiwic2lnIjoiVFpIbkdwaEVOYkw1NEc1VG9xamtsNDZZcURNPSI](https://www.dhs.gov/immigration-travel/entry/entry-process)
 4 [sInYiOiIxIn0=?source=newsletter&item=read-text®ion=digest&channel=daily-labor-report](https://www.dhs.gov/immigration-travel/entry/entry-process), is
 5 attached hereto as **Exhibit 1**.

6 5. On Wednesday, April 30, 2025, at 5:13 p.m. Pacific Time, I emailed Patrick Robbins,
 7 Acting U.S. Attorney for the Northern District of California and Pamela Johann, Assistant United
 8 States Attorney, Chief, Civil Division, for the Northern District of California, to inform them that
 9 Plaintiffs would be filing a motion for a temporary restraining order (“TRO”) in this case on May 1,
 10 2025. I informed them that Plaintiffs would ask the Court to set a deadline for the government’s
 11 response of Monday, May 5, and to set a hearing as soon as possible next week. I also informed them
 12 that Plaintiffs would file an administrative motion for additional pages for their memorandum in
 13 support of the TRO Motion. I asked whether Defendants would consent to Plaintiffs filing a 50-page
 14 memorandum in support of the TRO Motion.

15 6. Ms. Johann responded that she had forwarded my email to the Department of Justice
 16 attorneys who will be handling this litigation.

17 7. On the morning of May 1, 2025, Andrew Bernie from the Department of Justice
 18 entered an appearance in this case on behalf of all Defendants. *See* Dkt. 28. All Defendants therefore
 19 will be served with Plaintiffs’ TRO papers through their counsel via ECF immediately upon filing.

20 8. In the afternoon of May 1, 2025, Mr. Bernie responded to my April 30 email described
 21 above. He stated that Defendants would oppose a request that the Court direct the government to
 22 respond to the TRO Motion by Monday, May 5, and he proposed an alternative response date of May
 23 14. He also stated that Defendants would oppose Plaintiffs’ request to file an oversize brief unless the
 24 parties could “agree on a reasonable date” for Defendants’ response to the TRO Motion.

25 9. My colleague Danielle Leonard responded, cc’ing me and other counsel, that Plaintiffs
 26 were amenable to a response date of Tuesday, May 6 for Defendants. She also responded that
 27 Plaintiffs could agree to a more extended briefing schedule if defense counsel could provide
 28 confirmation of a binding commitment by each Defendant to halt all further implementation of the

1 Executive Order, OMB/OPM Memorandum, and Agency RIF and Reorganization Plans (“ARRPs”)
2 at issue in this case in the meantime. Otherwise, she explained, Plaintiffs would file their TRO
3 shortly, in light of the ongoing irreparable harm being caused by Defendants’ actions implementing
4 the Executive Order, including ongoing reductions in force and reorganization of federal agencies.

5 10. Mr. Bernie responded that Defendants would not agree to that condition. He stated
6 that Defendants opposed a Tuesday deadline to respond to the TRO and that Defendants intended to
7 file a response tonight to Plaintiffs’ request for a Tuesday deadline. He also stated that Defendants
8 oppose Plaintiffs’ motion for extra pages if the Court orders a Tuesday, May 6 deadline.

9 11. For these reasons, I have been unable to obtain a stipulation from Defendants
10 consenting to the relief requested in the administrative motion for additional pages.

11 I declare under penalty of perjury under the laws of the United States that the foregoing is true
12 and correct. Executed May 1, 2025, in Oakland, California.

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16 Barbara J. Chisholm
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EXHIBIT 1

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April 29, 2025, 3:56 PM PDT

White House Pushed Job Cuts at Agency That's Clashed With Musk (2)

The White House is privately urging the federal labor board to reduce staff, despite pushback by Trump-appointed officials warning that further cuts would imperil the agency's functions.

Reviewers from the Office of Management and Budget recently deemed the US National Labor Relations Board's rationale for avoiding layoffs inadequate. "Without more, the agency cannot fully exempt itself from further staff reductions," OMB staff said in a response to the NLRB. The memo urged the labor board to "think creatively" about how to use a set of tactics, including layoffs, to reduce headcount.

The ongoing conflict between leaders at NLRB and parts of the administration carrying out Elon Musk's government-cutting effort, as revealed in documents reviewed by Bloomberg News, illustrates the divide even among President Donald Trump's handpicked officials over how, and how far, to shrink the government.

Like the Federal Reserve and the Federal Trade Commission, the NLRB is officially an independent agency. It's tasked with enforcing the federal law that protects workers' right to freely form unions and take collective action to improve their working conditions. Its caseload has shot up in recent years as workers at companies like Starbucks Corp. and Amazon.com Inc. have tried to unionize.

It's also been a target for Musk, now a key adviser to the president. After the NLRB filed a complaint last year accusing SpaceX of illegally firing workers who criticized Musk — one of several cases the agency has brought against his businesses — the aerospace company filed a lawsuit arguing the labor board's structure was unconstitutional. (SpaceX has denied wrongdoing.)

Like other federal agencies, the NLRB was included in a government-wide directive to submit plans for layoffs and reorganizations "for review and approval" by mid-March. The directive came from the heads of the White House's Office of Management and Budget and the Office of Personnel Management, as part of the Department of Government Efficiency initiative spearheaded by Musk.

In its response, the NLRB said layoffs weren't currently "necessary or appropriate" there. The agency, under a chair and acting general counsel chosen by Trump this year, said it planned to maintain a hiring freeze, offer voluntary early retirements, and continue to identify opportunities to "realign and right-size for improved efficiency," as well as exploring using artificial intelligence for research and drafting documents.

But it noted its workforce is almost 30% smaller than it was 15 years ago while its workload has recently grown, creating backlogs and delaying investigations. The labor board warned that "the agency is already stretched thin, doing more work with far fewer employees" and that layoffs "cannot be implemented without impairing the agency's ability to fulfill its statutory mandate."

That didn't satisfy the Trump administration. In a response to the NLRB attributed to "OMB reviewers," most aspects of the labor board's plan were marked as "Does Not Meet Expectation," including the discussion of layoffs. The review urged the agency to "consider 'active' strategies" such as "consolidation or elimination" of some positions, and said that if it wanted to preserve particular jobs, it should "specifically identify and justify those positions," describing how they advance requirements in the law.

Staffing Reductions

The labor board should estimate "staff reduction totals" it could achieve through a set of tactics including toughening performance standards as well as implementing layoffs, the document said. It encouraged the agency to "immediately propose and act on additional staff reductions" as well as restructuring. "While we agree NLRB has significant statutory and programmatic responsibilities, the agency's structure and level of resources give it some room to streamline," the document said.

The White House, OMB and OPM didn't provide comment in response to inquiries. The NLRB declined to comment Monday.

In an all-staff email Tuesday responding to Bloomberg's reporting on its back-and-forth with the White House, the NLRB told employees that it had submitted additional info as directed by OMB and OPM, and was awaiting feedback.

"The NLRB is committed to the president's goal of achieving efficiencies and cost-savings in the federal government," the message sent on behalf of the agency's leaders said. "The chairman and acting general counsel believe — and they have communicated this to OMB and OPM — that the agency's people are its most valuable resource and are essential to carrying out the NLRB's important statutory mission."

After the OMB reviewers' feedback, a team of DOGE representatives arrived at the NLRB in April and have recently gained access to employees' personal email addresses — a step that helps prepare for layoffs — according to current and former employees, who spoke on condition of anonymity to avoid being targeted.

The wrangling at the NLRB echoes other challenges to the White House's swift, sweeping efforts to eliminate thousands of jobs from the federal workforce. In March, a federal district judge in California ruled that OPM had exceeded its authority by directing other agencies to fire probationary workers.

"Congress's statutory scheme grants to each agency head the authority to manage its own affairs, including the hiring and firing of employees," wrote Judge William Alsup, who issued an injunction that temporarily reinstated the fired workers. His order was blocked this month by the US Supreme Court as the litigation continues.

The administration's approach breaks with the traditional way predecessors have worked with independent agencies, said Wilma Liebman, who chaired the NLRB under former President Barack Obama. "'Doesn't meet expectation,' that to me seems quite unprecedented. ... It certainly doesn't reflect a collaborative relationship or partnering," Liebman said. "It's very much, 'We're in charge, and you're our subject.'"

(Updates with NLRB email to staff starting in 12th paragraph.)

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Laura Davison

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